

Appl. No. 09/715,586
Atty. Docket No. 5922R2CL
Amdt. Dated October 3, 2003
Reply to Office Action of August 4, 2003
Customer No. 27752

REMARKS

Claims 87-88 and 110-111 have been canceled without prejudice. Claims 41 and 95 have been amended to require that the active side further comprise an active disposed continuously thereon. Support for the current Amendment to Claims 41 and 95 can be found in the Specification on page 26, line 28-30, as originally filed. No new matter has been added. Claims 1-12, 14-18, 41-52, 54-58, 66, 81, and 95-109 remain in the instant Application.

35 U.S.C. §112, ¶2 Rejection

Claims 1-12, 14-18, 41-52, 54-58, 66, 81, 87, 88, and 95-111 were rejected under 35 U.S.C. §112, ¶2. The Examiner states that Claims 41 and 95 are virtually identical, with Claim 95 including the limitation of "substantially all of." The Examiner states that this limitation is clearly encompassed by Claim 41. Applicant believes Claim 41 to be related to Claim 95.

Applicant respectfully directs the Examiner's attention to M.P.E.P. §806.04(d). In particular, the M.P.E.P. states that, "A generic claim should read on each of the [embodiments]. A generic claim should include no material element additional to those recited in the species claims, and must comprehend within its confines the organization covered in each of the species." Thus, Applicant respectfully believes that Claims 41 and 95 are related by way of genus-species and are not indefinite under 35 U.S.C. §112, ¶2. Applicants respectfully request withdrawal of the Examiner's rejection.

Double Patenting Rejection

Claims 1-12, 14-18, 41-52, 54-58, 66, 81, 87, 88, and 95-111 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-18, 38-55, 75, 80, 81, and 86-102 of co-pending Application No. 09/716,740. Additionally, Claims 1-12, 14-18, 41-52, 54-58, 66, 81, 87, 88, and 95-111 were provisionally under the judicially created doctrine of obviousness-type double patenting over Claims 1-9 of co-pending Application No. 10/027,613. Pursuant to M.P.E.P. §1490, Applicants enclose an appropriate Terminal Disclaimer compliant with 35 U.S.C. §253, 32 C.F.R. §1.321, and 37 C.F.R. §3.73.

Rejection Under 35 U.S.C. §103(a)

Claims 1-12, 14-18, 41-52, 54-58, 66, 81, 87, 88, and 95-111 were rejected under 35 U.S.C. §103(a) over Wilbur, U.S. Patent No. 2,338,749. Applicants respectfully traverse this rejection for the following reasons:

1. Applicants' invention, as now claimed in Amended Claims 41 and 95, requires an adhesive to be continuously disposed upon the active side of the sheet material.
2. Contrary to Applicants' claimed invention, *Wilbur* does not provide or suggest a continuously disposing an adhesive on a non-porous material forming a storage wrap material.

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3. In fact, the *Wilbur* reference is silent with respect to providing a continuous adhesive disposed upon a non-porous substrate.

Applicants respectfully remind the Examiner that resiliency is not equivalent to conformability. Resiliency is related to the crushability and the ability of a material to stay crushed (i.e., function of tensile modulus). Conformability is the ability of a material to conform to an object (i.e., function of flexural modulus). In other words, the differences can be related by plasticity versus elasticity.

Because of these considerations, the *Wilbur* reference does not suggest what Applicants claim as their invention. The *Wilbur* reference fails to disclose, teach, suggest, or render obvious every recited feature of Applicants' claimed invention. Further, absent any motivation to provide Applicants' storage wrap material, the *Wilbur* reference cannot render any of the rejected claims obvious. See *In re Fine*, 837 F.2d 1071 (Fed.Cir. 1988); M.P.E.P. §2143.01. Applicants therefore request reconsideration and withdrawal of the Examiner's 35 U.S.C. §103(a) rejection to Applicants' independent Claims 41 and 95.

Because dependent Claims 1-12, 14-18, 42-52, 54-58, 66, 81, and 96-109 all depend directly or indirectly from Applicants' independent Claims 41 and 95, they contain all their respective limitations. For this reason, Applicants respectfully submit that the arguments made above concerning allowability of independent Claims 41 and 95 discussed *supra* are equally applicable to the rejection of Claims 1-12, 14-18, 42-52, 54-58, 66, 81, and 96-109 under 35 U.S.C. §102(b). Applicants therefore request reconsideration and withdrawal of the Examiner's 35 U.S.C. §102(b) rejection to Claims 1-12, 14-18, 42-52, 54-58, 66, 81, and 96-109.


Conclusion

Based on all the foregoing, it is respectfully submitted that each of Applicants' remaining claims is in condition for allowance and favorable reconsideration is requested.

This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512. If any additional charges are due, the Examiner is authorized to deduct such charges from Deposit Account No. 16-2480 in the name of The Procter & Gamble Company.

Respectfully submitted,

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